

**PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

Name KNIGHT, CLARENCE  
 (Last) (First) (Initial)

Prisoner Number C07508

Institutional Address P.O. Box 1050 Soledad, CA. 93960

SALINAS VALLEY STATE PRISON

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

CLARENCE V. KNIGHT

(Enter the full name of plaintiff in this action.)

vs.

**CV 08**

Case No. **3546**  
 (To be provided by the clerk of court)

M.S. EVANS, et al.,

**PETITION FOR A WRIT  
 OF HABEAS CORPUS**

(Enter the full name of respondent(s) or jailor in this action)

Read Comments Carefully Before Filling In

When and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

PET. FOR WRIT OF HAB. CORPUS

- 1 -

Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainees), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

## 1. What sentence are you challenging in this petition?

- (a) Name and location of court that imposed sentence (for example: Alameda County Superior Court, Oakland): PRISON DISCIPLINE

Court	Location
(b) Case number, if known _____	
(c) Date and terms of sentence _____	
(d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Where?	
Name of Institution: <u>SALINAS VALLEY STATE PRISON</u>	
Address: <u>P.O. BOX 1050 SOLEDAD, CA. 93960</u>	








2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)

POSSESSION OF INMATE MANUFACTURED ALCOHOL

3. Did you have any of the following?

Arraignment: Yes \_\_\_\_\_ No ☒

Preliminary Hearing: Yes \_\_\_\_\_ No ☒

Motion to Suppress: Yes \_\_\_\_\_ No ☒

4. How did you plead?

Guilty \_\_\_\_\_ Not Guilty ☒ Nolo Contendere \_\_\_\_\_

Any other plea (specify) \_\_\_\_\_

5. If you went to trial, what kind of trial did you have?

Jury \_\_\_\_\_ Judge alone \_\_\_\_\_ Judge alone on a transcript \_\_\_\_\_

6. Did you testify at your trial? Yes \_\_\_\_\_ No ☒

7. Did you have an attorney at the following proceedings:

(a) Arraignment Yes \_\_\_\_\_ No ☒

(b) Preliminary hearing Yes \_\_\_\_\_ No ☒

(c) Time of plea Yes \_\_\_\_\_ No ☒

(d) Trial Yes \_\_\_\_\_ No ☒

(e) Sentencing Yes \_\_\_\_\_ No ☒

(f) Appeal Yes \_\_\_\_\_ No ☒

(g) Other post-conviction proceeding Yes \_\_\_\_\_ No ☒

8. Did you appeal your conviction? Yes \_\_\_\_\_ No ☒

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes ☒ No \_\_\_\_\_

Year: 2008 Result: DENIED

Supreme Court of California Yes ☒ No \_\_\_\_\_

Year: 2008 Result: DENIED

Any other court Yes ☒ No \_\_\_\_\_

Year: 2008 Result: DENIED

(b) If you appealed, were the grounds the same as those that you are raising in this

petition?

Yes ☒ No ☐

(c) Was there an opinion?

Yes ☒ No ☐

(d) Did you seek permission to file a late appeal under Rule 31(a)?

Yes ☐ No ☐

If you did, give the name of the court and the result:

\_\_\_\_\_  
\_\_\_\_\_

9. Other than appeals, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal? Yes ☒ No ☐

[Note: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28 U.S.C. §§ 2244(b).]

(a) If you sought relief in any proceeding other than an appeal, answer the following questions for each proceeding. Attach extra paper if you need more space.

I. Name of Court: MONTEREY SUPERIOR COURT

Type of Proceeding: PETITION FOR WRIT OF HABEAS CORPUS

Grounds raised (Be brief but specific):

a. DENIAL OF FAIR AND IMPARTIAL HEARING

b. DEPRIVATION OF PROCEDURAL DUE PROCESS

c. \_\_\_\_\_

d. \_\_\_\_\_

Result: DENIED Date of Result: 4/8/2008

II. Name of Court: COURT OF APPEAL SIXTH APP. DIST.

Type of Proceeding: WRIT OF HABEAS CORPUS APPEAL

Grounds raised (Be brief but specific):

a. " 11  
 b. " 11  
 c. \_\_\_\_\_  
 d. \_\_\_\_\_

Result: DENIED Date of Result: 5/7/2008

III. Name of Court: SUPREME COURT OF CALIF.

Type of Proceeding: PETITION FOR REVIEW

Grounds raised (Be brief but specific):

a. " "  
 b. " "  
 c. \_\_\_\_\_  
 d. \_\_\_\_\_

Result: DENIED Date of Result: 7/9/2008

IV. Name of Court: \_\_\_\_\_

Type of Proceeding: \_\_\_\_\_

Grounds raised (Be brief but specific):

a. \_\_\_\_\_  
 b. \_\_\_\_\_  
 c. \_\_\_\_\_  
 d. \_\_\_\_\_

Result: \_\_\_\_\_ Date of Result: \_\_\_\_\_

(b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

Yes \_\_\_\_\_ No ✓

Name and location of court: \_\_\_\_\_

#### B. GROUNDS FOR RELIEF

State briefly every reason that you believe you are being confined unlawfully. Give facts to support each claim. For example, what legal right or privilege were you denied? What happened? Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent  
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,  
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: DENIAL OF FAIR AND IMPARTIAL DISCIPLINARY  
6 HEARING (PROCEDURAL DUE PROCESS)

7 Supporting Facts: SEE ATTACHMENTS #1, #2 AND #3  
8  
9  
10

11 Claim Two: \_\_\_\_\_  
12 \_\_\_\_\_

13 Supporting Facts: \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_

17 Claim Three: \_\_\_\_\_  
18 \_\_\_\_\_

19 Supporting Facts: \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_

23 If any of these grounds was not previously presented to any other court, state briefly which  
24 grounds were not presented and why:  
25 \_\_\_\_\_  
26 \_\_\_\_\_  
27 \_\_\_\_\_  
28 \_\_\_\_\_

1 List, by name and citation only, any cases that you think are close factually to yours so that they  
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning  
3 of these cases:

4 SEE ATTACHMENTS #1, #2, #3 AND #4

6  
7 Do you have an attorney for this petition?

Yes \_\_\_\_\_ No ☒

8 If you do, give the name and address of your attorney:

9  
10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in  
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12  
13 Executed on July 17, 2008

14 Date

Chaunce Knight

Signature of Petitioner

15  
16  
17  
18  
19  
20 (Rev. 6/02)

Court of Appeal, Sixth Appellate District - No. H032869  
S163722

**IN THE SUPREME COURT OF CALIFORNIA**

**En Banc**

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In re CLARENCE V. KNIGHT on Habeas Corpus

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The petition for review is denied.

SUPREME COURT  
**FILED**

JUL - 9 2008

Frederick K. Ohlrich Clerk

\_\_\_\_\_  
Deputy

**GEORGE**

\_\_\_\_\_  
Chief Justice



**COPY**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

Court of Appeal - Sixth App. Dist.  
**FILED**

**MAY 7 - 2008**

MICHAEL J. YERLY, Clerk

In re CLARENCE V. KNIGHT,  
  
on Habeas Corpus.

H032869  
(Monterey County  
Super. Ct. No. HC6075)

By \_\_\_\_\_  
DEPUTY

BY THE COURT:

The petition for writ of habeas corpus is denied.

(Bamattre-Manoukian, Acting P.J., Mihara, J., and McAdams, J.,  
participated in this decision.)

Dated     **MAY 7**    2008          **BAMATTRE-MANOUKIAN, J.**     Acting P.J.

## SUPERIOR COURT OF CALIFORNIA

## COUNTY OF MONTEREY

FILED

APR 08 2008

CONNIE MAZZEI  
CLERK OF THE SUPERIOR COURT  
MARY CASTRO  
DEPUTY

In re ) Case No.: HC 6075  
Clarence V. Knight ) ORDER  
On Habeas Corpus. )

On Feb. 13, 2008, Clarence V. Knight, CDC No. C-07508, filed a petition for writ of habeas corpus.

Petitioner is currently housed at the Salinas Valley State Prison in Soledad.

Petitioner was found guilty of violating 15 CCR §3016(a), "Possession of Inmate Manufactured Alcohol," (RVR Log No. D-07-03-0078 dated March 27, 2007) and assessed 120 days forfeiture of credit, a Division "C" offense. Among other things, the report indicated that a search of Petitioner's cell turned up a gallon of Pruno, approximately 50 apples and approximately 3 pounds of Pruno kicker made from apples, and the items were found in a common area of the cell under the bottom bunk.

Petitioner contends the Senior Hearing Officer, Correctional Lieutenant C. Barroga, falsified several statements in the report and omitted testimony from Petitioner's cellmate claiming complete ownership over the Pruno and fruit, and asserting Petitioner does not drink. Petitioner also contends that the SHO took these actions to ensure Petitioner was found guilty, in retaliation for grievances Petitioner filed against two other Correctional Officers.

Petitioner has exhausted administrative remedies.

The Court applies the "some evidence" standard in reviewing the decisions by disciplinary hearing officers. *See In re Powell* (1988) 45 Cal.3d 894, 904; *In re Ramirez* (2001) Cal.App.4<sup>th</sup> 549, 563. Under the "some evidence" standard, the requirements of due process are

1 satisfied as long as there is “some basis in fact” for the decision. *Powell*, 45 Cal. 3d at p. 904;  
2 *Ramirez*, 94 Cal.App.4<sup>th</sup> at p. 563. Courts applying this deferential standard need not examine  
3 the entire record, independently assess the credibility of witnesses, or weigh the evidence.  
4 *Superintendent v. Hill* (1985) 472 U.S. 445, 455-56.

5 Petitioner was found guilty of violating 15 CCR §3016(a), which prohibits an inmate  
6 from “possess[ing], manufactur[ing], or hav[ing] under [his] control any ... alcohol ....” At the  
7 disciplinary hearing, the SHO made four factual findings to support his conclusion that Petitioner  
8 was guilty of violating Section 3016(a), including that the Pruno was found in a common area of  
9 the cell. This finding alone is sufficient to satisfy due process in the context of a prison  
10 disciplinary hearing. See e.g. *In re Zepeda*, 141 Cal.App.4<sup>th</sup> 1493, 1499 (evidence that razor  
11 blade was located in open area accessible to both cellmates enough to sustain prison rule  
12 violation but not criminal conviction)

13 In *Zepeda*, a correctional officer found three razor blades inside a cup on top of a shelf  
14 during a cell search. (*Zepeda*, 141 Cal.App. 4<sup>th</sup> at 1495) At the time of the search Zepeda’s  
15 cellmate admitted the razor blades were his, but Zepeda was charged with and found guilty of  
16 violating a prison regulation prohibiting inmates from possessing weapons and lost 360 days of  
17 good conduct credits. (*Id.*) Zepeda filed a writ of habeas corpus alleging his federal due process  
18 rights were violated. The trial court granted the writ, finding Zepeda’s ability to access the  
19 razors alone was insufficient to find him guilty of a rules violation. (*Id.* at 1496) The Fourth  
20 District Court of Appeal reversed, holding that the location of the blades in an open area in  
21 Zepeda’s cell was sufficient to satisfy due process. The court reasoned that “[r]evocation of  
22 good time credits is not comparable to a criminal conviction,’ and ‘neither the amount of  
23 evidence necessary to support such a conviction’ nor ‘any other standard greater than some  
24 evidence applies....’” (*Zepeda*, 141 Cal.App. 4<sup>th</sup> at 1499 citing *Superintendent v. Hill*, 472 U.S.  
25 at 456.)

Petitioner's case is analogous to *Zepeda*. Accordingly, the petition is denied.

IT IS SO ORDERED.

Dated: 4-8-08



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Hon. Stephen A. Sillman  
Judge of the Superior Court

EXHIBIT "A"

EXHIBIT "A"

STATE OF CALIFORNIA  
DEPARTMENT OF CORRECTIONS AND REHABILITATION  
INMATE APPEALS BRANCH  
P. O. BOX 942883  
SACRAMENTO, CA 94283-0001

**DIRECTOR'S LEVEL APPEAL DECISION**

Date: DEC 30 2007

In re: Clarence Knight, C07508  
Salinas Valley State Prison  
P.O. Box 1020  
Soledad, CA 93960-1020

IAB Case No.: 0711455

Local Log No.: SVSP-07-02585

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner R. Floto. All submitted documentation and supporting arguments of the parties have been considered.

**I APPELLANT'S ARGUMENT:** The appellant is submitting this appeal relative to CDC Form 115, Rules Violation Report (RVR), Log #FD-07-03-0078, dated March 27, 2007, for Poss. of Inmate Manufactured Alcohol. The appellant contends that the information relied upon is erroneous. He claims that he was not provided a fair and impartial hearing. It is the appellant's position that he is not guilty of the RVR as charged. He requests dismissal of the RVR.

**II SECOND LEVEL'S DECISION:** The reviewer found that the appellant was afforded due process, including a fair and unbiased hearing by an impartial Senior Hearing Officer (SHO). On March 27, 2007, during a search of the appellant's assigned cell the reporting employee discovered one gallon of inmate manufactured alcohol, 50 apples and three pounds of "kicker" (a substance used to start the process of inmate manufactured alcohol). Supervisory staff confirmed that the contraband was inmate manufactured alcohol. The appellant did not meet the criteria for the assignment of an Investigative Employee to assist in the gathering of evidence. The appellant did not meet the criteria for the assignment of a Staff Assistant as there was no need for a confidential relationship; the issues are not complex; and the appellant is not illiterate and understands English. The appellant requested that the reporting employee be present at the hearing. The appellant requested that an additional witness be present at the hearing. The SHO allowed the witness and documented the statements provided.

**III DIRECTOR'S LEVEL DECISION:** Appeal is denied.

**A. FINDINGS:** The appellant was afforded all due process rights in the adjudication of the RVR and all procedural guidelines were met. A preponderance of evidence was established by an impartial SHO to sustain the guilty finding. Reports reflect that the appellant has presented no new or compelling evidence in the appeal, which would warrant a modification of the decision reached by the institution.

**B. BASIS FOR THE DECISION:**

California Code of Regulations, Title 15, Section: 3005, 3006, 3016, 3287, 3315, 3318, 3320, 3323

**C. ORDER:** No changes or modifications are required by the Institution.

This decision exhausts the administrative remedy available to the appellant within CDCR.



N. GRANNIS, Chief  
Inmate Appeals Branch

cc: Warden, SVSP  
Appeals Coordinator, SVSP

H.

... CONT.

ENVELOPE. I ASK YOU TO ACCEPT MY APPEAL WITH AN EXPLANATION FOR NOT TIMELY SUBMITTING IT WITHIN 15 DAYS.

THE SECOND LEVEL RESPONSE DISTORTS THE FACTS BY INCORPORATING STATEMENTS THAT ARE NOT FACTUAL BUT EXAGGERATE JUST TO SUPPORT THE ARBITRARY GUILTY FINDING. G.A. NCOTTI STATED "THE RVR DESCRIBES THE ODOR FROM THE CELL AS A STRONG ODOR OF FERMENTED ALCOHOL ALCOHOL." THE REPORT DOES NOT SAY THAT.

C.C.R. 3287 IS INAPPLICABLE WHEN OWNERSHIP WAS TAKEN AND C.C.R. 3022 DISALLOWS ME TO ASSUME CONTROL OVER ANY INMATE OR WHAT THEY DO. ESPECIALLY IF I LACK THE KNOWLEDGE OF ANY ACTIVITY. BOTH THE SECOND LEVEL REVIEW AND HEARING OFFICER HAS PROVIDED NO EVIDENCE TO REFUTE THAT I HAD NO KNOWLEDGE EXISTED DESPITE OWNERSHIP BEING TAKEN.

THE PREPONDERANCE OF EVIDENCE IN THIS CASE IS THE HEARING OFFICER ARBITRARILY FINDING ME GUILTY AFTER BEING EXONERATED AND FORCED ME TO CHALLENGE AND OVERTURN HIS FAULTY RULING.

THE HEARING OFFICER LT. BARROGA, DELIBERATELY DEVOIDED THE FINAL DISPOSITION OF THE STATEMENTS MADE BY BOTH WITNESSES. AND Y/C CANCIBOLA WHO ALSO WITNESSED THE HEARING STATEMENTS WAS NOT ASKED IF THE CONTENTS IN MY ADDITIONAL PAGE TO MY CDC 602 ARE TRUE IN ORDER TO SERVE JUSTICE. THIS FAILURE TO INCLUDE ADEQUATE STATEMENTS OF WITNESSES IS A REQUIREMENT LISTED IN THE SENIOR HEARING OFFICER'S DISCIPLINARY MANUAL WHICH WAS DELIBERATELY STRAYED FROM.

THIS ACT OF FINDING ME GUILTY AND CALLING

REVERSE →

THE PREponderance OF EVIDENCE THE HEARING OFFICER'S BELIEF IS AN ABUSE OF POWER. THIS IS NOT RUSSIA THIS IS AMERICA. CONCERNING FACTUAL WITNESS STATEMENTS, WHICH EXONERATES ME IS BLATANT OBSTRUCTION OF JUSTICE AND ~~THE~~ FORCING ME TO LITIGATE MY OWN INNOCENCE. THE APPEAL SPEAKS FOR ITSELF. THE THIRD LEVEL REVIEW HAS THE AUTHORITY TO TAKE CORRECTIVE MEASURES WHEN WRONGS ARE ON THE FACE OF DISCIPLINARY PROCEEDINGS WHICH PROVIDES FOR UNFAIR DISCIPLINARY HEARINGS. MY DUE PROCESS HAS BEEN VIOLATED AND HAS CREATED AN ATYPICAL AND SIGNIFICANT HARDSHIP ON ME.

THESE ARE ACTS OF RETALIATION. LT. BARREGA DID THIS TO HARM ME AND PUNISH ME FOR OTHER FILINGS AGAINST AFOREMENTIONED FALLS OF HIS. LT. BARREGA CLEARLY MADE HIS PERSONAL BELIEFS THE EVIDENCE VERSUS THE EVIDENCE PRESENTED AT THE HEARING WHICH NEEDS TO BE REVERSED. I REQUEST THAT AN INTERVIEW BE CONDUCTED ON MS. O'BACHUKA, O'ROWE, IM THOMAS REGARDING THE QUESTIONS AND ANSWERS AT THE HEARING IN ORDER TO FIND OUT WHY LT. BARREGA WOULD HOLD THE ASKED, ANSWERED QUESTIONS FROM THE FINAL DISPOSITION. AND ANSWER WHAT EVIDENCE EXISTS THAT I HAD ANY KNOWLEDGE OF PLANS. DELIBERATELY MAKING INIMITIES OUT OF LINES AND HOLDING ME RESPONSIBLE FOR ACTS NOT OF MY OWN IS CIVIL CRIMINALITY. I ASK YOU TO REVERSE THIS ACTION.

C. Krug



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

INMATE/PAROLEE  
APPEAL FORM

CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

1. SUSP1. 07-02385

2. \_\_\_\_\_

2. \_\_\_\_\_

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME <u>KNIGHT, C.</u>	NUMBER <u>C07508</u>	ASSIGNMENT <u>G.P.</u>	UNIT/ROOM NUMBER <u>D7-114</u>
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A. Describe Problem: THIS COMPLAINT IS SUBMITTED PER CCR 3084.5(a)(3)(G) MISCONDUCT BY A PEACE OFFICER. ON 4/28/07 DURING THE DISCIPLINARY PROCEEDINGS OF RVR LOG #FD-07-03-0078, LT. C. BARROGA INTERJECTED STATEMENTS IN THE DISPOSITION PORTION OF THE C.D.C. 115-C THAT WAS NOT STATED. THIS ACT WAS DONE WITH THE INTENTIONS OF SABOTAGING MY ABILITY TO EXONERATE MYSELF FROM HIS ARBITRARY FINDING OF GUILT AFTER HAVING TO ACCEPT THE FACT THAT INMATE THOMAS A68324 TOOK OWNERSHIP OF THE PRUND. THIS CDC. 115 HEARING WAS CONDUCTED IN FRONT OF % ROWE AND % CANCIELLA WHEN LT. BARROGA

If you need more space, attach one additional sheet.

CONT...

B. Action Requested: THAT THIS COMPLAINT BE PROCESSED PER CCR 3084.5(a)(3)(G) AND THAT THIS MATTER BE REFERRED TO THE CHIEF OF INTERNAL AFFAIRS AS A CATEGORY II COMPLAINT FOR CIVIL CRIMINAL ACTS. AND FOR THE C.D.O. TAKE AN APPROPRIATE REVIEW OF THESE VIOLATIONS OF PROCEDURAL DUE PROCES

Inmate/Parolee Signature: C. Knight

RECEIVED JUN 07 2007

Date Submitted: 6/4/07

C. INFORMAL LEVEL (Date Received: \_\_\_\_\_)

Staff Response: \_\_\_\_\_

BYPASS

RECEIVED  
OCT 18 2007  
INMATE APPEALS  
BRANCH

Staff Signature: \_\_\_\_\_

Date Returned to Inmate: \_\_\_\_\_

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

BYPASS

Signature: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

Note: Property/Funds appeals must be accompanied by a completed

CDC Appeal Number: \_\_\_\_\_

Board of Control form BC-1E, Inmate Claim

6-18-07 SUSP Hiring Authority received this  
appeal per AB 05/03 and determined this appeal  
to be at the level of a Staff Complaint: reason #1



First Level ☐ Granted ☐ P. Granted ☐ Denied ☐ Other \_\_\_\_\_E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: 6-12-07 Due Date: 7-20-07

Interviewed by: \_\_\_\_\_

Staff Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date Completed: \_\_\_\_\_

Division Head Approved: \_\_\_\_\_ Returned: \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date to Inmate: \_\_\_\_\_

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

Second Level ☐ Granted ☐ P. Granted ☒ Denied ☐ Other \_\_\_\_\_G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: 6-19-07 Due Date: 7-18-07☒ See Attached LetterSignature: [Signature] Date Completed: 7-18-07Warden/Superintendent Signature: [Signature] Date Returned to Inmate: \_\_\_\_\_

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

DISSATISFIED: N. GRANNIS, PLEASE TAKE NOTICE THAT I RETURNED TO SVSP FROM OUT TO COURT ON 10/10/07 AND DID NOT RETRIEVE MY PROPERTY UNTIL 10/12/07. THIS APPEAL WAS DELIVERED TO ME 8 DAYS BEFORE I WENT OUT TO COURT BUT I THOUGHT I HAD TAKEN THE APPEAL WITH ME SO I COULD RESPOND AND FORWARD IT TO THE THIRD LEVEL FROM O.T.C. BUT IT WAS LEFT IN THE WRONG

Signature: C. Knight Date Submitted: 11/14/07 <sup>CONT.</sup>

For the Director's Review, submit all documents to: Director of Corrections  
P.O. Box 942883  
Sacramento, CA 94283-0001  
Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION: ☐ Granted ☐ P. Granted ☒ Denied ☐ Other \_\_\_\_\_☒ See Attached LetterDate: DEC 30 2007

.... CONT.)

RENDERED HIS FINAL DETERMINATION AND FINDINGS, IN VIOLATION OF CCR 3320.1(f)

DURING THE HEARING I SPECIFICALLY TOLD LT. BARROGA THAT I DON'T DRINK AND I DIDN'T HAVE ANY KNOWLEDGE OF ANY PRUNO. THAT IS WHY MY STATEMENT IS DOCUMENTED IN THE CDC-115-C. FURTHERMORE I EXPRESSED TO LT. BARROGA THAT I BELIEVED HIS DECISION TO FIND ME GUILTY DESPITE INMATE THOMAS PLEADING GUILTY TAKING OWNERSHIP AND STATED THAT HE NEVER TOLD ME OR SHOWED ME ANY PRUNO WAS TO PUNISH ME FOR GRIEVANCES THAT I WROTE AGAINST SGT. NAVA AND % CELBYA.

IN LT. BARROGA'S FINDINGS AT #4, LT. BARROGA HAS OUTRIGHT LIED THAT I ADMITTED THAT THERE WAS PRUNO IN THE CELL AND WOULD NOT TELL HIS CELLMATE (THOMAS) TO PLACE THE PRUNO IN HIS OWN SHELF. THE STATEMENT WAS NEVER SAID! ASK ALL WITNESSES. (STAFF & INMATE)

LT. BARROGA ALSO STATED IN HIS DISPOSITION THAT I REQUESTED % ROWE TO BE PRESENT AT THE HEARING BUT DID NOT HAVE ANY QUESTIONS FOR % ROWE. THIS IS ANOTHER LIE. I SPECIFICALLY ASKED % ROWE TWO QUESTIONS THAT HE ANSWERED. #1 I ASKED % ROWE WHO SPECIFICALLY TOLD HIM TO WRITE BOTH KNIGHT AND THOMAS AND HE REPLIED SGT. NAVA AND SGT. SULLIVAN! #2. I ASKED % ROWE IF HE STOOD BY HIS REPORT THAT THE PRUNO WAS FOUND UNDER THE BOTTOM BUNK, HE REPLIED THAT YES, I FOUND IT IN A BUCKET UNDER THE BOTTOM BUNK. I TOLD ROWE THAT THATS A LIE BECAUSE THOSE BUCKETS DON'T FIT UNDER THE BUNK AND THAT HE DIDN'T STATE IN HIS REPORT THAT THE PRUNO WAS DISCOVERED IN A BUCKET. LT. BARROGA'S ACTIONS ARE AN OBSTRUCTION OF JUSTICE AND HAS WITHHELD INFORMATION

REVERSE  
SIDE  
→

AND INJECTED A FALSE STATEMENT TO DEMONSTRATE THAT I HAD KNOWLEDGE OF PRIMO IN THE CENT. BOTH OFFICERS CAN ATTEST TO THE FACT THAT I ADMITTED TO SAYING SOMETHING AND THAT STATEMENTS MADE IN THIS COMPLAINT ARE TRUE. THAT I ASKED SPECIFIC QUESTIONS TO SGT. ROWE THAT LT. BARROGA IS DELIBERATELY CONCEALING. I THINK I THINK LT. BARROGA STATED DURING THE 11/5 HEARING TO ALL WITNESSES THOMAS THAT HE PUT HIS COLLIE IN A BAD POSITION BY HAVING PRIMO WITH THE COLL AND THAT HE SHOULD BE HANDLED WITH HIS OWN LOCKER. THOSE ARE LT. BARROGA'S WORDS NOT MINE AS A LAW ENFORCER.

Q. BARROGA ASKED SGT. THOMAS A SERIES OF QUESTIONS ASKED WHILE SGT. THOMAS ANSWERED THAT TWO AT 1 PM WHOSE HAND WAS IT? SGT. THOMAS REPLIED "MINE."

Q. WHAT WERE YOU DOING WITH A WHOLE GRATEFUL THOMAS (THOMAS REPLIED, "DRINKING IT.") A. I HAD A BOTTLE IN MY

Q. #3. WHAT WERE YOU DOING WITH 50 AMMO? TO MAKE MORE AND PRIMO THOMAS REPLIED, IT WAS A LOT OF AMMO I

Q. #4. DID YOUR COLE KNIGHT KNOW ABOUT THE PRIMO? NO! THAT HE DOESN'T DRINK. I HAD A BOTTLE IN MY

Q. NONE OF THIS IS IN THE REPORT BECAUSE LT. BARROGA'S AGENDA WAS TO FIND ME GUILTY AND MAKE IT STICK. LT. BARROGA ALSO STATED THAT IT WAS HIS PERSONAL BELIEF THAT I KNOW THE PRIMO WAS IN THE CENT. TO TOLD BARROGA THAT IT'S MY PERSONAL BELIEF THAT THIS GUILTY FINDING IS BASED ON FAVOR TO SGT. NAVA THAT I WOULD PUNISH ME FOR WRITING 602'S AGAINST HER TEXAS.

Q. THIS MATTER MUST BE INVESTIGATED. LT. BARROGA HAS DEPRIVED ME OF PROCEDURAL DUE PROCESS BY FALSE STATEMENTS TO INTERFERE WITH MY FIRST AMENDMENT RIGHTS. AND WITH FALSIFIED STATEMENTS & REPLIES TO DISTORT THE TRUTH TO FULFILL HIS UNLAWFUL AGENDA

C. Knight

///



State of California

Department of Corrections and Rehabilitation

# Memorandum

Date: July 18, 2007

To: Inmate KNIGHT, C07508  
Salinas Valley State Prison

Subject: SECOND LEVEL APPEAL RESPONSE LOG NUMBER-SVSP-D-07-02585

## ISSUE:

The appellant is submitting this appeal relative to CDC Form 115, Rules Violation Report (RVR), Log # D-07-03-0078 dated 03/27/07 for "Possession of Inmate Manufactured Alcohol." The appellant alleged staff misconduct by the Senior Hearing Officer (SHO). Appellant claims the SHO lied when it was documented that appellant admitted that he knew the inmate made alcohol was in his cell. Appellant alleges during the hearing he asked questions of Correctional Officer Rowe which he claims the SHO deliberately concealed.

Appellant requests this appeal to be processed as a staff complaint and referral to the "Chief of Internal Affairs" as a Category II complaint. Appellant requests the Chief Disciplinary Officer (CDO) to take an appropriate review of his claimed due process violations.

**REGULATIONS:** The rules governing this issue are:

CCR 3016 Controlled Substances, Drug Paraphernalia, and Distribution  
CCR 3315 Serious Rule Violations  
CCR 3320 Hearing Procedures and Time Limitations

## **SUMMARY OF INVESTIGATION:**

The First Level of Review was bypassed per CCR 3084.5(b). T. Variz, Appeals Coordinator was assigned to investigate this appeal at the Second Level of Review. All submitted documentation and supporting arguments have been considered. Additionally, a thorough examination has been conducted regarding the claim presented by the appellant and evaluated in accordance with Salinas Valley State Prison Operational Procedures (OP); the CCR; and the Departmental Operations Manual (DOM).

This appeal was reviewed by the SVSP Hiring Authority pursuant to AB 05-03. The SVSP Hiring Authority determined this appeal issue did not rise to the level of a staff complaint and assigned as a disciplinary appeal.

A review of the RVR indicates that appellant was charged with CCR 3016, for the specific act of "Possession of Inmate Manufactured Alcohol."

The charge was classified as a Division "C" offense. The discovery date of the RVR was 03/27/07.

RECEIVED CCR OF 2007

Inmate KNIGHT, C07508  
Case No. SVSP-D-07-02585  
Page 2

Appellant received his copy of the RVR on 03/30/07, which was within fifteen (15) days of the discovery.

The RVR was not referred to the Monterey County District Attorney (DA) prosecution. The RVR reflects that he attended the disciplinary hearing held on 04/28/07, and pled "Not Guilty" to the charge.

The hearing was not held within thirty (30) days from the date that appellant was provided a copy of the RVR. The SHO determined a guilty finding, and assessed one hundred twenty (120) days credit loss forfeiture, as a result of lost time constraints.

Other time constraints related to the RVR were met; all copies of evidence were issued 24 hours prior to the hearing, and appellant was afforded all due process rights with regards to witnesses.

Appellant was not a participant in the Mental Health Services Delivery System.

A Staff Assistant was not assigned per CCR 3315 (d)(2)(A).

An Investigative Employee (IE) was not assigned per CCR 3315 (d)(1)(A).

The appellant's attachments and filing has been reviewed. At the interview, the appellant reiterated what he wrote in this appeal, continuing to allege misconduct by the SHO during the hearing. The appellant's only argument in defense of the charge is alleged staff misconduct, which the SVSP Hiring Authority determined that this appeal issue did not rise to the level of staff misconduct. The appellant's claim of staff misconduct was not accepted as credible.

A review of the RVR reveals the inmate made alcohol was discovered in a common area of the appellant's cell. The alcohol consisted of one gallon of inmate made alcohol, approximately fifty apples and about three pounds of "kicker" made from the apples. The RVR describes the odor from the cell as a strong odor of fermented alcohol.

The appellant is advised inmates are assigned areas of control such as their cell or bunk area (CCR 3287). Anything found in this area is presumed the property of that inmate. Possession includes actual possession as well as constructive possession. Constructive Possession means that one person maintains control or ownership while it is in the actual possession of another person. It is reasonable to believe the appellant had full knowledge of the alcohol within his cell as the strong odor alerted the Reporting Employee as he/she was performing a cell search of the appellant's cell.

The appellant's claim that the alcohol belonged solely to his cell mate was not accepted as credible by the SHO. The SHO conducted a disciplinary hearing pursuant to California Code of Regulations, Title 15, Section (CCR) 3320. During the hearing, the appellant was afforded the opportunity to present evidence. The SHO conducted a disciplinary hearing and rendered a finding of not guilty. The SHO

Inmate KNIGHT, C07508  
Case No. SVSP-D-07-02585  
Page 3

considered all available evidence and appropriately determined that a preponderance of evidence existed to find the appellant guilty. Therefore, the SHO found the appellant guilty and assessed credit forfeiture commensurate with a Division "C" offense. The appellant has not presented any "new" evidence that was not available to him prior to his disciplinary hearing. A review of the RVR disposition shows that the appellant was afforded the opportunity to present an adequate defense and to call witnesses.

The appellant is advised that the appeals process is not a rehearing of the disciplinary. The appeals process is a review to determine if all time constraints were met and if due process was maintained during the course of the disciplinary proceedings. The documentation and arguments presented are persuasive that the appellant has failed to support his appeal issue with sufficient evidence or facts to warrant a modification of the decision reached by the SHO. The appellant was provided appropriate due process and administrative protections in the adjudication of the RVR, and the finding and disposition are consistent with regulations. The appellant has not provided for a sound basis with which to change or modify the decision reached by the SHO.

**DECISION:** The appeal is Denied.

The appellant is advised that this issue may be submitted for a Director's Level of Review if desired.

A handwritten signature in black ink, appearing to read 'G. A. Neotti', with a long horizontal line extending to the right.

G. A. NEOTTI  
Chief Deputy Warden  
Salinas Valley State Prison

804 to Records:

Date:

I/M

D-7, 117

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

## RULES VIOLATION REPORT

CDC NUMBER C-07508	INMATE'S NAME KNIGHT	RELEASE/BOARD DATE 12/1/2007	INST. SVSP	HOUSING NO. D7-114	LOG NO. FD-07-03-007
VIOLATED RULE NO(S) CCR §3016(a)		SPECIFIC ACTS POSS. OF INMATE MANUFACTURED ALCOHOL	LOCATION D7-'B' Pod	DATE 03/27/07	TIME 0945 hours

## CIRCUMSTANCES

On 03/27/07, at approximately 0945 hours, while I was assigned as Facility 'D-2' Yard Officer #4. I assisted other staff with the cell searches conducted in D-7 'B & C' Pods. While conducting a search of cell #114, occupied by Inmates THOMAS (P-68324) and KNIGHT (C-07508). I found approximately one (1) gallon of Inmate Manufactured Alcohol (Pruno), approximately fifty (50) apples and approximately three (3) pounds Pruno Kicker made from apples. This Inmate Manufactured Alcohol was red in color and had a strong odor of fermented alcohol. These items were found in a corner area of the cell under the bottom bunk. These items were verified by my supervisors Sergeant R. Nava and Sergeant P. Sullivan to be Inmate Manufactured Alcohol (Pruno and Pruno Kicker). This concludes my report.

Inmate KNIGHT is not a participant in the Mental Health Services Delivery System.

REPORTING EMPLOYEE (Typed Name and Signature) J. Rowe, Correctional Officer		DATE 3/27/07	ASSIGNMENT D-2 Yard Officer #4	RDO'S W/Th
REVIEWING SUPERVISOR'S SIGNATURE [Signature]		DATE 3/9/07	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING	
CLASSIFIED <input type="checkbox"/> ADMINISTRATIVE <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION C	DATE 3/27/07	CLASSIFIED BY (Typed Name and Signature) 2 Buck	HEARING REFERRED TO <input type="checkbox"/> HO <input checked="" type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/> FC
COPIES GIVEN INMATE BEFORE HEARING				
<input checked="" type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE) [Signature]	DATE	TIME	TITLE OF SUPPLEMENT
<input type="checkbox"/> INCIDENT REPORT LOG NUMBER	BY: (STAFF'S SIGNATURE)	DATE	TIME	BY: (STAFF'S SIGNATURE)

HEARING  
Plea: Inmate KNIGHT entered a plea of NOT GUILTY at this RVR Hearing.

Findings: Inmate KNIGHT was found GUILTY of CCR §3016(a), specifically "Possession Of Inmate Manufactured Alcohol," a Division "C(11)" offense. This finding is based on the preponderance of evidence presented at the hearing, which does substantiate the charge. The evidence presented at the hearing included: (Findings Can't See CDCR-115C)

Disposition: Inmate KNIGHT was assessed 120 days forfeiture of credits in accordance with a Division "C(11)" offense per CCR §3323(e)(11).

Additional Disposition: Inmate KNIGHT was counseled, warned, and reprimanded.

Classification Referral: Refer to UCC for Program Review.

REFERRED TO ☐ CLASSIFICATION ☐ BPT/NAEA

ACTION BY: (TYPED NAME) C. Barroga, Correctional Lieutenant	SIGNATURE [Signature]	DATE 04/28/07	TIME 1150
REVIEWED BY: (SIGNATURE) B. Rankin, Facility Captain	DATE 5-15-07	CHIEF DISCIPLINARY OFFICER'S SIGNATURE M. P. Moore III, CDO	DATE 5-17-07
BY: (STAFF'S SIGNATURE) [Signature]		DATE 4/28/07	TIME 1150

☒ COPY OF CDC 115 GIVEN INMATE AFTER HEARING



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTION

## SERIOUS RULES VIOLATION REPORT

CDC NUMBER <b>C-07500</b>	INMATE'S NAME <b>KNIGHT</b>	VIOLATED RULE NO(S) <b>C.C.R. §3015(a)</b>	DATE <b>03/27/07</b>	INSTITUTION <b>SVSP</b>	LOG NO. <b>FD-07-09-0078</b>
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REFERRAL FOR FELONY PROSECUTION IS LIKELY IN THIS INCIDENT ☐ YES ☒ NO

## POSTPONEMENT OF DISCIPLINARY HEARING

<input type="checkbox"/> I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE ▶ <b>N/A</b>	DATE
<input type="checkbox"/> I REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE ▶ <b>N/A</b>	DATE
DATE NOTICE OF OUTCOME RECEIVED	DISPOSITION <b>N/A</b>	
<input type="checkbox"/> I REVOKE my request for postponement.	INMATE'S SIGNATURE ▶ <b>N/A</b>	DATE

## STAFF ASSISTANT

STAFF ASSISTANT <input type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE ▶	DATE
<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON <b>DNMC 3315 (d)(2)(a) (9.9 take)</b>	

## INVESTIGATIVE EMPLOYEE

INVESTIGATIVE EMPLOYEE <input type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE ▶	DATE
<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON <b>DNMC 3315 (c)(1)(d)(a)</b>	

EVIDENCE / INFORMATION REQUESTED BY INMATE:

## WITNESSES

WITNESSES REQUESTED AT HEARING (IF NOT PRESENT, EXPLAIN IN FINDINGS)

☒ REPORTING EMPLOYEE ☐ STAFF ASSISTANT ☐ INVESTIGATIVE EMPLOYEE ☐ OTHER ☐ NONE

WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)

<b>DNMC 3315 (d)(2)(a)</b>	GRANTED <input checked="" type="checkbox"/>	NOT GRANTED <input type="checkbox"/>		GRANTED <input type="checkbox"/>	NOT GRANTED <input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

INVESTIGATIVE REPORT: Investigative Employees must interview the inmate charged, the reporting employee, and any others who have significant information, documenting the testimony of each person interviewed. Review of files, procedures, and other documents may also be necessary.

INVESTIGATOR'S SIGNATURE

DATE

☐ COPY OF CDC 115-A GIVEN INMATE

BY: (STAFF'S SIGNATURE)

TIME

DATE

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTION

PAGE 1 OF 2

## RULES VIOLATION REPORT - PART C

CDC NUMBER G-07508	INMATE'S NAME KNIGHT	LOG NUMBER FT-07-03-0078	INSTITUTION SVSP	TODAY'S DATE 04/28/07
<input type="checkbox"/> SUPPLEMENTAL <input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input checked="" type="checkbox"/> HEARING <input type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER				

Hearing Date: 04/28/07.

Time: 1150 hours.

Any Postponement Explained: N/A.

**Inmate Plea and Statement:** Inmate KNIGHT entered a plea of NOT GUILTY and stated: "I don't drink and I didn't have pruno."

**Inmate's Health:** Inmate KNIGHT claims to be in good health and prepared to proceed with the disciplinary process.

**MEETS:** Inmate KNIGHT is not a participant in the Mental Health Services Delivery System. The circumstances of the RVR do not indicate that Inmate KNIGHT exhibit any bizarre behavior that would raise concerns about his mental health. At the hearing, Inmate KNIGHT did not demonstrate any strange, bizarre, or irrational behavior.

**IE PROCESS:** Date of Discovery: 03/27/07.

Initial RVR copy served on: 03/30/07.

Incident Package served on: N/A.

D.A. results issued date: N/A.

Hearing started on: 04/28/07.

CDCR-115-MH served on: N/A.

Supplemental served on: N/A.

Last document served on: 03/30/07.

**D.A. Referral:** This matter was not referred to the Mendocino County District Attorney's Office.

**Time Constraints:** All time constraints have been met pursuant to CCR §3320(b). Inmate KNIGHT was provided a copy of the CDCR-115 within 15 days after the discovery of information leading to the charges. Hearing was held within 30 days of the date the inmate was provided a copy of the CDCR-115. Inmate KNIGHT acknowledged receiving all documents used for this hearing 24 hours prior to the hearing.

**TABE Score:** Inmate KNIGHT TABE Reading Score was Above 4.0 as noted in the Central File. Inmate KNIGHT read the RVR aloud and was able to demonstrate his understanding of the RVR and the disciplinary process through discussion with the SPD.

**Staff Assistant (SA):** Staff assistant was not assigned per CCR §3315 (d)(2)(A).

**Investigative Employee (IE):** Investigative Employee was not assigned per CCR §3315 (d)(1)(A).

**Evidence Requested or Used:** There was no evidence requested or used.

**External/Outside Evidence:** N/A.

**Video Tape Evidence:** N/A.

**Confidential Information:** N/A.

**Witness Requested:** Inmate KNIGHT requested R.E. J. Rowa and Inmate THOMAS as witnesses to be present at the hearing. SKO Granted both witnesses, however at the hearing Inmate KNIGHT did not have any questions for R.E. J. Rowa.

**Witness Testimony at Hearing:** Inmate THOMAS stated, "The pruno was mine."

**Enemy Concerns:** There was no enemy concerns related with this disciplinary hearing.

C. Barroga, Correctional Lieutenant

(HEARING CON'T SEE CDCR-115C PAGE 2)

SIGNATURE OF WRITER <i>[Signature]</i>		DATE SIGNED 04/28/07	
GIVEN BY: (Staff's Signature) <i>[Signature]</i>		DATE SIGNED 5/2/07	TIME SIGNED 12:00



COPY OF CDC 115-C GIVEN TO INMATE

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTION

PAGE 2 OF 2

## RULES VIOLATION REPORT - PART C

CDC NUMBER C-07508	INMATE'S NAME KNIGHT	LOG NUMBER PD-07-03-0078	INSTITUTION SWSP	TODAY'S DATE 04/28/07
<input type="checkbox"/> SUPPLEMENTAL <input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input checked="" type="checkbox"/> HEARING <input type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER				

**Findings:** Inmate KNIGHT is found GUILTY as charged. This finding is based upon the following preponderance of evidence:

1) RVR Log #PD-07-03-0078, authored by Reporting Employee (R.E.) Correctional Officer J. Rowi, which states in part:

"while I was assigned as Facility 'D-2' Yard Officer #4. I assisted other staff with the cell searches conducted in D-7 'B & C' Pods. While conducting a search of cell #114, occupied by Inmates THOMAS (I-68324) and KNIGHT (C-07508). I found approximately one (1) gallon of Inmate Manufactured Alcohol (Pruno), approximately fifty (50) apples and approximately three (3) pounds Pruno Kicker made from apples. This Inmate Manufactured Alcohol was red in color and had a strong odor of fermented alcohol. These items were found in a common area of the cell under the bottom bunk. These items were verified by my supervisors Sergeant R. Nava and Sergeant P. Sullivan to be Inmate Manufactured Alcohol (Pruno and Pruno Kicker).

2) The pruno was found at the common area inside the cell.

3) The significant amount of pruno was too large for one individual consumption.

4) Admits that there was a pruno in the cell and would not tell his cellmate (THOMAS) to place the pruno to his own shelf.

**CONCLUSION:** Based on the aforementioned facts, this SHO finds the preponderance of the evidence relied upon has been met to render and sustain a finding of Guilt on the charged offense of Inmate KNIGHT violating CCR §3016(a); specifically, "Possession Of Inmate Manufactured Alcohol," a Division "C(11)" offense per CCR §3323(e)(11).

**Appeal Rights:** Inmate KNIGHT was advised of his rights to appeal per CCR section §3084.1 (a). Inmate KNIGHT was informed he would receive a copy of the completed RVR upon final review of the Chief Disciplinary Officer. Inmate KNIGHT was further advised of credit restoration per CCR §3327 and §3328.

C. Berroga, Correctional Lieutenant

<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER <i>[Signature]</i>	DATE SIGNED 04/28/07	
	GIVEN BY: (Staff's Signature) <i>[Signature]</i>	DATE SIGNED 5/1/07	TIME SIGNED 1200

California Department of Corrections and Rehabilitation

Salinas Valley State Prison

# MEMORANDUM



Date:

6/12/07

To:

Inmate  
Salinas Valley State Prison

6/4/07

FD-07-03-0078  
Appeal

Subject: **INMATE APPEAL REGARDING STAFF COMPLAINT**

Your CDC 602 Inmate/Parolee Appeal Form regarding a Staff Complaint has been received.

In this appeal, you have alleged staff misconduct, as well as, other peripheral issues. Pursuant to Administrative Bulletin 05/03, you are advised that the staff complaint issue is being reviewed by the Hiring Authority for disposition. However, you must appeal the other issue(s) separately.

Eloy Medina, CCII  
Appeals Coordinator

80% to Records: \_\_\_\_\_ Date: \_\_\_\_\_

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

## RULES VIOLATION REPORT

CDC NUMBER C-07508	INMATE'S NAME KNIGHT	RELEASE/BOARD DATE 1-1-11	INST. SVSP	HOUSING NO. D7-114	LOG NO. FD-07-03-001
VIOLATED RULE NO(S) COR §3016(a)		SPECIFIC ACTS POSS. OF INMATE MANUFACTURED ALCOHOL	LOCATION D7-'E' Pod	DATE 03/27/07	TIME 0945 hours

## CIRCUMSTANCES

On 03/27/07, at approximately 0945 hours, while I was assigned as Facility 'D-2' Yard Officer #4. I assisted other staff with the cell searches conducted in D-7 'B & C' Pods. While conducting a search of cell #114, occupied by Inmates THOMAS (P-68324) and KNIGHT (C-07508). I found approximately one (1) gallon of Inmate Manufactured Alcohol (Pruno), approximately fifty (50) apples and approximately three (3) pounds Pruno Kieker made from apples. This Inmate Manufactured Alcohol was red in color and had a strong odor of fermented alcohol. These items were found in a corner area of the cell under the bottom bunk. These items were verified by my supervisors Sergeant R. Nava and Sergeant P. Sullivan to be Inmate Manufactured Alcohol (Pruno and Pruno Kieker). This concludes my report.

Inmate KNIGHT is not a participant in the Mental Health Services Delivery System.

REPORTING EMPLOYEE (Typed Name and Signature) J. Rowe, Correctional Officer		DATE 3/27/07	ASSIGNMENT D-2 Yard Officer #4	RDO'S W/Th
REVIEWING SUPERVISOR'S SIGNATURE [Signature]		DATE 3/27/07	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING DATE _____ LOC. _____	
CLASSIFIED <input type="checkbox"/> ADMINISTRATIVE <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION: C	DATE 3/27/07	CLASSIFIED BY (Typed Name and Signature) [Signature]	HEARING REFERRED TO <input type="checkbox"/> HO <input checked="" type="checkbox"/> KSHO <input type="checkbox"/> SC <input type="checkbox"/> FC
COPIES GIVEN INMATE BEFORE HEARING				
<input checked="" type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE) [Signature]	DATE 3/27/07	TIME [Blank]	TITLE OF SUPPLEMENT [Blank]
<input type="checkbox"/> INCIDENT REPORT LOG NUMBER:	BY: (STAFF'S SIGNATURE) [Signature]	DATE [Blank]	TIME [Blank]	BY: (STAFF'S SIGNATURE) [Signature]
HEARING				

REFERRED TO ☐ CLASSIFICATION ☐ BPT/NAEA

ACTION BY: (TYPED NAME)	SIGNATURE [Signature]	DATE [Blank]	TIME [Blank]
REVIEWED BY: (SIGNATURE) [Signature]	DATE [Blank]	CHIEF DISCIPLINARY OFFICER'S SIGNATURE [Signature]	DATE [Blank]
BY: (STAFF'S SIGNATURE) [Signature]		DATE [Blank]	TIME [Blank]
<input type="checkbox"/> COPY OF CDC 115 GIVEN INMATE AFTER HEARING			

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

## SERIOUS RULES VIOLATION REPORT

CDC NUMBER C-07508	INMATE'S NAME INLET	VIOLATED RULE NO(S) C.C.R. §3015(a)	DATE 03/27/07	INSTITUTION SVSP	LOG NO. FD-07-03-0078
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REFERRAL FOR FELONY PROSECUTION IS LIKELY IN THIS INCIDENT ☐ YES ☒ NO

## POSTPONEMENT OF DISCIPLINARY HEARING

<input type="checkbox"/> I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE N/A	DATE
<input type="checkbox"/> I REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE N/A	DATE
DATE NOTICE OF OUTCOME RECEIVED	DISPOSITION N/A	
<input type="checkbox"/> I REVOKE my request for postponement.	INMATE'S SIGNATURE N/A	DATE

## STAFF ASSISTANT

STAFF ASSISTANT <input type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE N/A	DATE
<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF
<input type="checkbox"/> NOT ASSIGNED	REASON DORM 3215 (H) 2 X 1	(9.9 late)

## INVESTIGATIVE EMPLOYEE

INVESTIGATIVE EMPLOYEE <input type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE N/A	DATE
<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON DORM 3215 (H) 2 X 1	

EVIDENCE / INFORMATION REQUESTED BY INMATE:

## WITNESSES

WITNESSES REQUESTED AT HEARING (IF NOT PRESENT, EXPLAIN IN FINDINGS)

☒ REPORTING EMPLOYEE ☐ STAFF ASSISTANT ☐ INVESTIGATIVE EMPLOYEE ☐ OTHER ☐ NONE

WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)

GRANTED NOT GRANTED

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)

GRANTED NOT GRANTED

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

INVESTIGATIVE REPORT: Investigative Employees must interview the inmate charged, the reporting employee, and any others who have significant information, documenting the testimony of each person interviewed. Review of files, procedures, and other documents may also be necessary.

<input type="checkbox"/> COPY OF CDC 115-A GIVEN INMATE	BY: (STAFF'S SIGNATURE)	INVESTIGATOR'S SIGNATURE	DATE
		TIME	DATE

EXHIBIT "B"

EXHIBIT "B"

DECLARATION OF THOMAS A65324

I, CHARLES THOMAS, A65324, DECLARE THAT THE FOREGOING IS TRUE AND CORRECT AND WILL ATTEST TO IT IN ANY COURT OF LAW UNDER PENALTY OF PERJURY. ON APRIL 25, 2007, I WERE CALLED AS AN INMATE WITNESS TO TESTIFY ON BEHALF OF CLARENCE KNIGHT, C-07508, AT A DISCIPLINARY HEARING CONDUCTED BY LT. C. BARROGA. THE RVR DATED 3/27/07 FOR THE SPECIFIC ACT POSSESSION OF INMATE MANUFACTURE ALCOHOL.

DURING ALL TIMES REGARDING THIS DECLARATION, I WAS KNIGHT'S CELLMATE AND HAVE FIRSTHAND KNOWLEDGE OF THE FACTS I AM ABOUT TO PRESENT. WHEN CALLED TO THE HEARING AS A WITNESS, THE FOLLOWING PEOPLE WERE PRESENT: LT. BARROGA, PO ROWE, PO CANCELLO, AND INMATE KNIGHT. LT. BARROGA ASKED ME THESE QUESTIONS THAT I ANSWERED DURING THE HEARING:

1. WHOSE PRUNE WAS IT? I REPLIED "MINES".
2. WHAT WERE YOU DOING WITH A WHOLE GALLON? I REPLIED, "DRINKING IT".
3. WHAT WERE YOU DOING WITH 50 APPLES? I REPLIED, "TO MAKE SOME MORE PRUNE".
4. DID YOUR CELLMATE KNIGHT KNOW ABOUT THE PRUNE? NO, HE DOESN'T DRINK.

LT. BARROGA WENT ON TO SAY THAT DON'T YOU SEE WHERE YOU ARE GETTING YOUR CELLMATE INTO TROUBLE? BY YOU NOT PUTTING IT IN YOUR OWN LOCKER YOU'RE GETTING HIM IN TROUBLE TOO. I REPLIED, YOU CAN'T PUNISH MY CELLMATE (KNIGHT) FOR WHAT BELONGS TO



.... (cont.)

ALCOHOL AND THE TRUTH THAT IT IS MY PRUNO! LT. BARROGA DID NOT REPLY.

WHEN KNIGHT APPEARED THE FACT THAT THE ASKED QUESTIONS AND ANSWERS WERE NOT IN THE REPORT AND THAT LT. BARROGA DELIBERATELY KEPT FROM THE RECORD, I TOLD KNIGHT THAT I WOULD WRITE A DECLARATION ON HIS BEHALF. KNIGHT SHOULD HAVE NEVER BEEN CHARGED BECAUSE I TOOK OWNERSHIP AND KNIGHT CANNOT TELL ME WHAT TO DO OR NOT TO DO AND WHAT I TESTIFIED TO AT THE HEARING, KNIGHT HAD NO CONTROL OVER IT.

THE PRUNO WAS MINE, THAT'S IT, THAT'S ALL.

I, CHARLES THOMAS declare under PENALTY OF PERJURY THAT THE AFOREMENTIONED IS TRUE AND CORRECT

CHARLES THOMAS  
DECLARANT'S NAME

C. Thomas  
DECLARANT'S SIGNATURE

DATED: 2-02-08

EXHIBIT "C"

EXHIBIT "C"

DECLARATION OF CLARENCE KNIGHT

I, CLARENCE KNIGHT, DEPOSES AND SAYS THAT THIS DECLARATION IS BASED ON PERSONAL INVOLVEMENT, FACT AND MY BELIEF THAT THE FOLLOWING IS TRUE AND CORRECT.

ON APRIL 28, 2007, I WERE FOUND GUILTY DURING A RULES VIOLATION REPORT (RVR) DISCIPLINARY HEARING CONDUCTED BY LIEUTENANT C. BARROGA, FOR THE SPECIFIC ACT "POSSESSION OF INMATE MANUFACTURED ALCOHOL.

DURING THE DISCIPLINARY HEARING, I PLED NOT GUILTY AND STATED, "I DON'T DRINK AND DID NOT HAVE ANY PRUND. LT. BARROGA EXPRESSED THE ALCOHOL CONTENTS THAT WAS DISCOVERED IN MY ASSIGNED CELL, WHO I DID SO OCCUPY WITH INMATE THOMAS, P#68324.

I REQUESTED INMATE THOMAS AS AN INMATE WITNESS AND CORRECTIONAL OFFICER ROWE AS A STAFF WITNESS. % ROWE IS THE AUTHOR OF THE RVR WHO DISCOVERED THE (PRUND) ALCOHOL. I WAS NOT PRESENT FOR THE SEARCH OF THE CELL.

WHEN LT. BARROGA CALLED INMATE THOMAS TO TESTIFY, % ROWE, % CANCHOLA AND MYSELF WERE PRESENT IN THE OFFICE. LT. BARROGA, BEGAN TO ASK INMATE THOMAS A SERIES OF QUESTIONS AS FOLLOWS:

1. WHOSE PRUND WAS IT? THOMAS REPLIED MINE.
  2. WHAT WERE YOU DOING WITH A WHOLE GALLON?
- THOMAS REPLIED, "DRINKING IT".

1 3. WHAT WERE YOU DOING WITH 50 APPLES? THOMAS  
2 REPLIED, "TO MAKE SOME MORE PRUNO."

3 4. DID YOUR CELLMATE KNIGHT KNOW ABOUT THE  
4 PRUNO? THOMAS REPLIED, "NO, HE DOESN'T DRINK."

5 EACH OF THESE ASKED AND ANSWERED QUESTIONS  
6 CAUSED MUCH LAUGHTER WHICH COULD'VE BEEN ATTESTED  
7 TO BUT, NO ONE INTERVIEWED % ROWE OR % CANNOLA  
8 THROUGHOUT THE APPEALS PROCESS TO ASCERTAIN THE TRUTH  
9 THAT, THESE QUESTIONS AND ANSWERS DID TAKE PLACE AND  
10 THAT LT. BARROGA DELIBERATELY CONCEALED THIS IN-  
11 FORMATION FROM THE RECORD TO SECURE A GUILTY FIND-  
12 ING AND TO OBSTRUCT MY ABILITIES TO EXONERATE MYSELF  
13 WHEN OWNERSHIP OF THE PRUNO HAD BEEN TAKEN BY THOMAS.

14 LT. BARROGA WENT ON TO TELL THOMAS THAT "DON'T  
15 YOU SEE HOW YOU ARE GETTING YOUR CELLMATE IN TROUBLE  
16 BY NOT PUTTING THE PRUNO IN YOUR OWN LOCKER? THOMAS  
17 REPLIED, TELLING BARROGA, YOU CAN'T PUNISH KNIGHT FOR  
18 WHAT BELONGS TO ME". LT. BARROGA SAID "I DON'T THINK  
19 YOU CAN DRINK A GALLON OF PRUNO ALL BY YOURSELF AND  
20 I BELIEVE YOU MADE IT FOR THE BOTH OF YOU. LT. BARROGA  
21 SPEAKS AS IF HE IS AN EXPERT IN PRUNO DRINKING AND  
22 HAS BASED HIS DECISION ON HIS BELIEFS CONTRARY TO  
23 THE EVIDENCE PRESENTED. LT. BARROGA IS NOT TOO SMART.  
24 HE HAS PRACTICED THIS TACK OF PUNISHING TWO INMATES  
25 FOR THE ACTIONS OF ONE. THESE ACTS PIT INMATES AGAINST  
26 EACH OTHER AND FORCES INMATES FILINGS INTO THE COURTS  
27 AS A RESULT OF A PARTIAL DISCIPLINARY HEARING.

28 LT. BARROGA HAS NOT SUPPORTED HIS FINDING ME

1 GUILTY BASED ON A SINGLE FACT AND IT IS MY  
 2 BELIEF THAT HIS ABUSE OF POWER AS A SENIOR HEARING  
 3 OFFICER IS EVIDENT WHEN AS A FACTFINDER, HE IS  
 4 SUPPOSE TO MAKE DECISIONS BASED ON THE EVIDENCE  
 5 PRESENTED. NOT DELIBERATELY STRAY FROM THE FACTS JUST  
 6 TO BUILD AN UNBLEMISHED RECORD OF GUILTY FINDINGS  
 7 TO SUPPORT HIS PERFORMANCE RECORD. THIS IS COMMON  
 8 PRACTICE ENGAGED IN BY MALE SUPERVISING STAFFS HERE  
 9 AT SALINAS VALLEY STATE PRISON AND ENDORSED BY THE  
 10 WARDEN M.S. EVANS.

11 LT. BARROGA'S EFFORTS TO MAKE INMATES RESPONSIBLE  
 12 FOR THE ACTS OF OTHER INMATES PLACES INMATES IN  
 13 JEOPARDY AND AT RISK OF HARM IF AS HE SUGGESTS FOR  
 14 INMATES TO ASSUME CONTROL OVER EACH OTHER, WHICH IS  
 15 IN VIOLATION OF CALIF. CODE OF REGULATIONS 3022.

16 THE ONE WAY TO SERIOUSLY HURT ANY INMATE WHO  
 17 STRIVES TO BE DISCIPLINARY FREE IS TO ARBITRARILY FIND  
 18 HIM OR HER GUILTY OF AN INFRACTION. THIS IS THE GREATER  
 19 OFF THE RECORD PUNISHMENT INMATES ARE BEING SUBJECTED  
 20 TO BY ROGUE LIEUTENANTS AT SALINAS VALLEY STATE PRISON.

21 I DID NOT POSSESS ANY ALCOHOL NOR DID I HAVE  
 22 OR SAY I HAD KNOWLEDGE OF ANY PRISON. LT. BARROGA HAS  
 23 USED HIS OWN STATEMENTS IN THE RECORD AS IF I SAID THEM.

24 I, CLARENCE KNIGHT, DECLARE UNDER PENALTY OF  
 25 PERJURY THAT THE AFOREMENTIONED IS TRUE AND CORRECT.  
 26 DATED: FEB. 7, 2008

27 Clarence Knight  
 28 CLARENCE KNIGHT  
 PRO. SE PETITIONER

1 ISSUES PRESENTED TO THE SUPERIOR COURT

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25 ATTACHMENT #1  
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## 6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

DEPRIVATION OF A FAIR AND IMPARTIAL DISCIPLINARY HEARING  
(DEPRIVATION OF PROCEDURAL DUE PROCESS)

## a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

ON 4/25/07, I RECEIVED A DISCIPLINARY HEARING BY LT. BARROGA FOR POSSESSION OF INMATE MANUFACTURED ALCOHOL. DURING THE RVR HEARING I REQUESTED INMATE THOMAS #68324 AS AN INMATE WITNESS. THOMAS IS MY CELLMATE AND WAS SO DURING THE DISCOVERY OF THE MANUFACTURED ALCOHOL. LT. BARROGA CALLED 2/M THOMAS AS A WITNESS. 2/M THOMAS EXONERATED PETITIONER WITH TESTIMONY OF FACT DURING THE HEARING. LT. BARROGA FAILED TO INCORPORATE IN THE BODY OF THE HEARING REPORT THE LINE OF QUESTIONS ASKED AND ANSWERED BY 2/M THOMAS. PETITIONER APPEALED THROUGH THE INMATE APPEAL SYSTEM TO THE DIRECTOR'S LEVEL OF REVIEW. BOTH THE WARDEN'S REVIEW AND THE DIRECTOR'S LEVEL OF REVIEW UPHOLD THE GUILTY FINDING AND ASSERTS THAT THE HEARING OFFICER ALLOWED THE WITNESS AND DOCUMENTED THE STATEMENTS PROVIDED WHICH IS UNTRUE. NOTHING IN THE FINAL DISPOSITION SUPPORTS THE GUILTY FINDING OR PROVIDES ANY EXPERT TESTIMONY OF THE HEARING OFFICERS EXPERTISE TO SUPPORT THE BELIEFS STOOD BY LT. BARROGA TO ENABLE HIM TO GO AGAINST THE EVIDENCE PROVIDED BY INMATE THOMAS #68324, OR THE EVIDENCE PETITIONER PRESENTED ON APPEAL IN HIS CDC 602 INMATE APPEAL OF THIS MATTER - SEE

CONT...

## b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

U.S. CONSTITUTION 14TH AMENDMENT; CALIF. CODE OF REGULATIONS TITLE 15  
§§ 3320, 3310(d), 3022; DEPARTMENTAL OPERATIONAL MANUAL (D.O.M.)  
§ 54100.18.2; WOLFF V. MC DONNELL 94 S. CT 2963 (1974); SANDIN V. CONNER  
515 U.S. 472, 115 S. CT. 2293, 2300 (1995); HOWARD V. GAINAGE 82 F.3d 1343;  
SUPERINTENDANT V. HILL 472 U.S. 445, 455 (1985)

1 SUPPORTING FACTS CONTINUED)

2 PETITIONER'S EXHIBIT "A" DEMONSTRATES THE LINE OF QUESTIONS  
3 ASKED AND ANSWERED BY INMATE THOMAS. THE HEARING  
4 NOTED MY STATEMENT OF RECORD; HE FAILED TO NOTE  
5 THE WITNESSES RESPONSES TO ASKED QUESTIONS. HOWEVER,  
6 LT. BARROGA DELIBERATELY NOTED A STATEMENT OF HIS  
7 OWN AND SAID THAT "PETITIONER ADMITTED HE HAD  
8 KNOWLEDGE THE PRUNO WAS IN THE CELL." THIS IS ANOTHER  
9 LIE. IT ALSO CONTRADICTS MY INMATE STATEMENT NOTED  
10 BY LT. BARROGA. LT. BARROGA ALSO BASED THE GUILTY  
11 FINDINGS ON HIS BELIEFS WITHOUT A SHRED OF EVIDENCE  
12 TO SUPPORT HIS BELIEFS. THE GUILTY FINDING WAS ARBITRARY  
13 AND DONE SO DELIBERATELY TO FORCE PETITIONER  
14 TO CHALLENGE HIS ARBITRARY RULING AND BE FORCED TO  
15 CHALLENGE HIS DECISION THROUGH THE BROKEN PARTIAL  
16 INMATE APPEAL SYSTEM SINCE MOST INMATES ARE NOT  
17 CAPABLE OF LITIGATING THROUGH THE COURT.

18 SALINAS VALLEY STATE PRISON STAFFS AND LT. BARROGA  
19 EXPECTS INMATES TO CONTROL OTHER INMATES BY TELLING  
20 THEM WHAT TO DO AND WHAT NOT TO DO. THIS CONFLICTS  
21 WITH THE ESTABLISHED RULES THAT LT. BARROGA DOESN'T  
22 KNOW SO WELL.

23 EXHIBIT "B" IS A DECLARATION BY INMATE THOMAS  
24 DETAILING THE EVENTS OF THE DISCIPLINARY HEARING, AND  
25 TAKING OWNERSHIP OF THE DISCOVERED PRUNO.

26 EXHIBIT "C" IS A DECLARATION BY PETITIONER IN  
27 SUPPORT OF THIS PETITION.

28 G. NEOTTI, THE CHIEF DEPUTY WARDEN (CDW)



1 SUPPORTING FACTS CONT...

2 UPHOLD THE GUILTY FINDING AND WENT AGAINST THE  
3 PRESENTED EVIDENCE BY STATING THAT PETITIONER HAS  
4 NOT PRESENTED ANY "NEW" EVIDENCE THAT WAS NOT AVAIL-  
5 ABLE TO HIM PRIOR TO THE HEARING". THIS IS A TESTAMENT  
6 OF THE FACT THAT THE APPEAL SYSTEM DOESN'T WORK SINCE  
7 EVEN THE CHIEF DEPUTY WARDEN IS ALLOWED TO USE  
8 WORD TERMS OUT OF CONTEXT AND UNSUPPORTED. CLEARLY  
9 PETITIONER'S C.D.C. 602 DETAILS THE VIOLATIONS DURING THE  
10 DISCIPLINARY HEARING YET THE C.D.W. NOR THE DIRECTOR'S  
11 LEVEL REVIEW ADDRESSED THE APPEALED ISSUES.

12 IN FURTHERANCE THE C.D.W. MISQUOTES STATEMENTS  
13 IN THE WARDEN'S LEVEL RESPONSE STATING, "THE APPELLANT'S  
14 CLAIM THAT THE ALCOHOL BELONGING SOLELY TO HIS CELLMATE  
15 WAS NOT ACCEPTED AS CREDIBLE BY THE SENIOR HEARING  
16 OFFICER (SHO) LT. BARROGA". THIS STATEMENT WAS NEVER  
17 MADE BY PETITIONER AND WAS DESIGNED TO MAKE A  
18 RECORD WHICH CAN BE CONSTRUED AS IF PETITIONER  
19 SAID THE ALCOHOL BELONGS TO THOMAS. THIS IS HOW  
20 PRISON OFFICIALS PIT INMATES AGAINST EACH OTHER, RECORD  
21 STATEMENTS TO MAKE IT APPEAR AS THOUGH ONE INMATE  
22 SPOKE AGAINST THE OTHER, WHICH IS NOT THE CASE. PETITIONER  
23 ONLY CALL HIS REQUESTED WITNESS AND LET THE WITNESS  
24 TAKE OWNERSHIP.

25 AN EVIDENTIARY HEARING AND/OR DISCOVERY IN THIS  
26 MATTER WOULD ALLOW FOR A RECORD OF LT. BARROGA'S RECENT  
27 DISCIPLINARY HEARINGS WHICH WITH REVEAL ARBITRARY GUILTY  
28 FINDINGS WITHOUT SUPPORTING EVIDENCE.

1 SUPPORTING FACTS (CONT....)

2 LT. BARROGA did NOT INCLUDE in HIS REPORT  
3 THAT % ROWE AND % CANNOLM WERE PRESENT DURING  
4 THE AVR HEARING AND HEARD ALL OF THE ASKED AND  
5 ANSWERED QUESTIONS OF INMATE THOMAS TO DISTORT  
6 THE RECORD OF THE FACTS AND TO FRUSTRATE THE  
7 APPEALS PROCESS IN A BLATANT ACT OF OBSTRUCTION  
8 OF JUSTICE.

9 ASIDE FROM LT. BARROGA'S PERSONAL BELIEFS VERSUS  
10 TESTIMONIAL EVIDENCE, THERE IS NO EVIDENCE THAT  
11 LT. BARROGA COULD RELY ON THAT CAN REFUTE THE  
12 TESTIMONY OF INMATE THOMAS WHO TOOK OWNERSHIP OF  
13 THE ALCOHOL THROUGH TESTIMONY AND EXONERATED THE  
14 PETITIONER.

15 FOR THE REASONS STATED, PETITIONER REQUEST  
16 THE COURT TO GRANT THIS WRIT AND REVERSE THE GUILTY  
17 FINDING IN THE INTEREST OF JUSTICE.

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ISSUES PRESENTED TO CT. OF APP.

ATTACHMENT #2

MC-275

## 6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

SUPERIOR COURT ERRED IN ITS RULING WAS CONTRARY TO  
ESTABLISHED LAW.

## a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

THE COURT RULED BY UPHOLDING THE HEARING OFFICERS GUILTY FINDING  
THAT DUE TO THE PRUNO BEING FOUND IN A COMMON AREA THAT BOTH  
INMATES ARE TO BE FOUND GUILTY OF THE OFFENSE DESPITE ONE OF  
THE INMATES ASSIGNED TO THE CELL TOOK OWNERSHIP. THE SAME  
EVIDENCE STANDARD IS MISAPPLIED IN THIS CONTEXT. THE SUPERIOR  
COURT ASSERTS THERE WERE FOUR FACTUAL FINDINGS TO SUPPORT THE  
CONCLUSION REACHED BY THE HEARING OFFICER YET ONLY RELIED  
ON THE FACT THAT THE PRUNO WAS FOUND IN A COMMON AREA. YES  
IT IS TRUE THAT THE ASSIGNED CELL WAS OCCUPIED BY BOTH INMATES  
HOWEVER, INMATES HAVE NO CONTROL OVER WHAT CELL THEY ARE ASSIGNED  
TO OR WHO THEY CELL UP WITH. ALSO, INMATES MAY NOT ASSUME CONTROL  
OVER OTHER INMATES IS A RULE STRONGLY UPHOLD BY STAFFS. IT IS  
UNREASONABLE TO APPLY THE ZEPEDA STANDARD IN THIS INSTANCE

POST...

## b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

U.S. CONST. 14TH AMEND; C.C.R. TITLE 15 §§ 3320, 3310(d), 3022; DEPART-  
MENTAL OPERATIONAL MANUAL (D.O.M.) §§ 54100.18.2, OPERATIONAL MANUAL 11A  
SUPERINTENDENT V. HILL 472 U.S. 455 (1985); HOWARD V. GRINAGE 82 F.3d 1343;  
SANDIN V. CONNOR 515 U.S. 472, 115 S.Ct. 2293 (1995)

... CONT.

1 BECAUSE ZEPEDA IS WRONG. NONETHELESS, THE USE OF  
 2 AN OPERATIONAL PROCEDURE THAT THE "COMMON AREA" IS USE  
 3 IS NOT LAW. IT HAS NOT BEEN APPROVED BY THE ADMINIS-  
 4 TRATIVE PROCEDURE ACT (APA) OR THE OFFICE OF ADMIN-  
 5 ISTRATIVE LAW (OAL) AND CONFLICTS WITH CALIFORNIA  
 6 CODE OF REGULATIONS TITLE 15. JUST BECAUSE PRUNO WAS  
 7 FOUND IN A COMMON AREA ISN'T "SOME EVIDENCE" TO ESTABLISH  
 8 OWNERSHIP OR GUILT. THIS OPERATIONAL PROCEDURE OF THE  
 9 COMMON AREA STANDARD DOES NOT OFFER ANY EVIDENCE TO  
 10 HOLD THAT PETITIONER HAD ANYTHING TO DO WITH THE PRUNO  
 11 EXCEPT FOR TO CONTRADICTION STATEMENT BY THE HEARING  
 12 OFFICER. SEE DECLARATIONS ATTACHED HERETO. TO ALLOW  
 13 BOTH CEINMATES TO BE HELD GUILTY FOR WHAT ONE HAS AL-  
 14 READY ADMITTED TO WOULD IMPLY THAT INMATES ARE ALLOWED  
 15 TO ASSUME CONTROL OVER OTHER INMATES IN VIOLATION  
 16 OF CALIF. CODE OF REGS. TITLE 15 § 3022 AND STAFF WOULD  
 17 BE PERMITTED TO PLACE ANY DISFAVORED INMATE IN A CELL  
 18 WITH A KNOWN KNIFE MAKER, WINE MAKER, SEX PREDATOR,  
 19 ETC... AND HOLD BOTH INMATES ACCOUNTABLE WHENEVER  
 20 THEY FEEL THE NEED TO HARASS, RETALIATE AND/OR PUNISH  
 21 AN INMATE. FOR THE HEARING OFFICER TO LEAVE OUT OF  
 22 THE TESTIMONY OF MY INMATE WITNESS FROM THE FINDINGS  
 23 DISPOSITION OF THE RULES VIOLATION REPORT (RVR) IS AN  
 24 OBSTRUCTION OF JUSTICE IN ITSELF BY CONCEALING EXCULPAT-  
 25 ORY EVIDENCE IN MY BEHALF. IT DISTORTS THE FACTS AND HIS  
 26 ILL-WILLED INTENTIONS TO FORCE ME TO LITIGATE THIS  
 27 MATTER THROUGH THE COURTS. THE HEARING OFFICE ALSO USED  
 28 HIS OWN STATEMENT TO MY INMATE WITNESS DURING THE

CONT...

...CONT.  
 1 HEARING AGAINST ME BY STATING THAT I "ADMIT THAT  
 2 THERE WAS PRUNO IN THE CELL AND WOULD NOT TELL MY CELL-  
 3 MATE (THOMAS) TO PLACE THE PRUNO TO HIS OWN SHELF."  
 4 THIS CONTRADICTS MY STATEMENT WRITTEN BY THE HEAR-  
 5 ING OFFICER, THAT: INMATE KNIGHT ENTERED A PLEA OF  
 6 NOT GUILTY AND STATED: I DON'T DRINK AND I DIDN'T HAVE  
 7 ANY PRUNO."

8 LT. BARROGA THE HEARING OFFICER DELIBERATELY  
 9 SABOTAGED MY ABILITY TO PROPERLY GRIEVE THE FACTS  
 10 BY LEAVING OUT CRUCIAL TESTIMONIAL FACT IN MY  
 11 DEFENSE. PLEASE READ EXHIBITS B & C.

12 FOR THESE FOREGOING REASONS, I ASK THE COURT TO  
 13 CORRECT THIS ERR AND GRANT PETITIONERS WRIT.

14 4/28/08

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 16 C. Knight  
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ISSUES PRESENTED TO THE SUPREME COURT

ATTACHMENT #3

## 6. GROUNDS FOR RELIEF

**Ground 1:** State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (if you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

DEPRIVATION OF A FAIR AND IMPARTIAL DISCIPLINARY HEARING  
(DEPRIVATION OF PROCEDURAL DUE PROCESS)

CT. OF APPEALS DENIAL WITHOUT OPINION WAS IN ERR IN ITS  
RULING WAS CONTRARY TO ESTABLISHED LAW.

## a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

THE COURT OF APPEALS ERRED IN UPHOLDING THE SUPERIOR COURTS  
RULING THAT PETITIONER WAS RIGHTFULLY FOUND GUILTY OF  
POSSESSION OF INMATE MANUFACTURED ALCOHOL AFTER  
PETITIONER'S CELLMATE RIGHTFULLY TOOK OWNERSHIP OF THE  
ALCOHOL DURING TESTIMONY DURING THE DISCIPLINARY HEARING  
WHEN CALLED AS A WITNESS. SEE EXHIBIT "B" DECLARATION OF  
INMATE THOMAS. BY THE HEARING OFFICER'S DELIBERATE ACT OF  
WITHHOLDING THE WITNESSES TESTIMONY FROM THE FINDINGS PORTION  
OF THE RULES VIOLATION REPORT, FRUSTRATED PETITIONER'S ABILITY TO  
PRESENT THE FACTS IN MY DEFENSE. THE COURTS OF SUPERIOR  
AND COURT OF APPEALS APPLICATION OF THE "SOME EVIDENCE"  
STANDARD UNDER IN RE POWELL AND IN RE RAMIREZ IS  
MISAPPLIED AND CONTRARY TO SUPERINTENDENT V. HILL BECAUSE

## b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

FACTS CONT...  
U.S. CONST. 14<sup>TH</sup> AMEND.; C.C.R. TITLE 15 §§ 3320, 3310(D), 3022; DEPT.  
OPERATIONAL MANUAL (DOM) § 54100.18.2; OPERATIONAL PROCEDURE 11 A  
SUPERINTENDENT V. HILL 472 U.S. 455 (1985) HOWARD V. GRINAGE 82 F.3d 843  
SANDIN V. CONNOR 515 U.S. 472 (1995) WOLFE V. McDONNELL 94 S.Ct. 2963 (1974)



1. .... FACTS

2 IN RE ZEPEDA ASSERTED TO BE ANALOGOUS TO PETITIONERS  
 3 CASE IS MISSTATED AND CONTRARY TO THE ACTUAL SOME  
 4 EVIDENCE RULE #1. BEING THAT INMATES ARE NOT ALLOWED  
 5 TO ASSUME CONTROL OVER OTHER INMATES, NO INMATE CAN  
 6 BE HELD ACCOUNTABLE FOR THE ACTS OF ANOTHER INMATE.  
 7 #2 ASSUMING FOR ARGUENDO SAKE THAT BECAUSE THE PRUNO  
 8 WAS FOUND INSIDE OF OUR ASSIGNED CELL, (AND THAT IS  
 9 CONSIDERED A COMMON AREA) A COMMON AREA WHERE  
 10 CONTRABAND WAS FOUND DOES NOT OR CANNOT IN TERMS  
 11 OF EVIDENCE SUPERCEDE MY INMATE WITNESS TAKING  
 12 RESPONSIBILITY FOR THE ALCOHOL. AN ADMISSION OF GUILT  
 13 WITH DETAILS OUTWEIGHS THE HEARING OFFICER'S BELIEFS  
 14 WITHOUT EVIDENCE TO CONTRADICT THE EVIDENCE PROFFERED  
 15 BY THE INMATE WITNESS. #3 THE CONTRADICTION OF THE  
 16 HEARING OFFICER'S STATEMENTS THAT PETITIONER ADMITTED  
 17 KNOWLEDGE OF THE PRESENCE OF THE ALCOHOL DISTORTS THE  
 18 FACTS AND PRESENTS A DELIBERATE ACT OF INJECTING  
 19 UNTRUE STATEMENTS JUST TO SATISFY THE FINDINGS AND  
 20 GUILTY FINDING.

21 LT. BAROGGA'S ACTS PROVIDED A PARTIAL HEARING  
 22 TO OBSTRUCT JUSTICE WITH DEPRIVED PETITIONER OF A  
 23 FAIR AND IMPARTIAL DISCIPLINARY HEARING AND PROCED-  
 24 URAL DUE PROCESS.

25 FOR THESE REASONS, PETITIONER ASKS THIS COURT  
 26 RESPECTFULLY TO REVERSE THE LOWER COURT DECISIONS  
 27 AND GRANT PETITIONER A WRIT.

28 DATED: 5/ 1/2008

CLARENCE KNIGHT  
 CLARENCE KNIGHT

SUPERIOR COURT CITATION

ATTACHMENT #4

The Court, having reviewed the petition, return, traverse, points and authorities, and exhibits now issues the following:

IT IS HEREBY ORDERED that the petition for writ of habeas corpus is GRANTED. Respondent shall vacate it's decision finding petitioner guilty of violation of Title 15, California Code of Regulations section 3016 and shall restore to him the ninety days lost as a result of the decision.

1. The decision of the hearing officer must be upheld if there was "some evidence" in the record that could support the conclusion reached by the disciplinary board. (Superintendent v. Hill (1985) 472 U.S. 445, 455.)

2. Respondent contends that because petitioner was in the cell just before the search, and the odor of alcohol was so strong that anyone in the cell must have been aware of it's presence constitutes "some evidence".

3. Respondent's argument is not persuasive. An inmate has no control over either his housing or his cell partner. Housing of inmates is almost entirely within the discretion of respondent. (Title 15, Cal. Code Regs., §§5068, 5080.)

4. No inmate will be permitted to assume control over other inmates. (Title 15, Cal. Code Regs., § 3022.) Petitioner was forced to share his cell with the cell partner. There is no evidence that he could control the space inhabited by his cell partner. *OR ANYONE ELSE Housed In the Area.*

Petitioner was charged with possession of inmate manufactured alcohol. Petitioner's cell partner admitted ownership of the inmate manufactured alcohol. The evidence presented was that there was a plastic one gallon jar, containing inmate manufactured alcohol found in the jointly occupied cell. None of the evidence directly implicated petitioner. No evidence was ever offered that petitioner knew the nature of the substance in the container or even that he actually knew it was there. The Court finds that there is no evidence in the record to support the charges.

DATED: December 09, 1991



*[Signature]*  
JACK V. SAPUNOR, Judge  
Judge of the Superior Court



STATE OF CALIFORNIA  
COUNTY OF MONTEREY

(C.C.P. SEC. 466 &amp; 2015.5; 28 U.S.C. SEC. 1746)

I, C. KNIGHT declare under penalty of perjury that: I am the PETITIONER in the above entitled action; I have read the foregoing documents and know the contents thereof and the same is true of my own knowledge, except as to matters stated therein upon information, and belief, and as to those matters, I believe they are true.

Executed this 17 day of JULY, 20 08, at Salinas Valley State Prison, Soledad, California 93960-1050.

(Signature) Clarence Knight  
DECLARANT/PRISONER

PROOF OF SERVICE BY MAIL  
(C.C.P. SEC 1013(a) & 2015.5; 28 U.S.C. SEC. 1746)

I, C. KNIGHT, am a resident of California State Prison, in the County of Monterey, State of California; I am over the age of eighteen (18) years and am/am not a party of the above entitled action. My state prison address is: P.O. Box 1050, Soledad, California 93960-1050.

On July 17, 20 08, I served the foregoing: PETITION FOR A WRIT OF HABEAS CORPUS

(Set forth exact title of document(s) served)

On the party(s) herein by placing a true copy(s) thereof, enclosed in sealed envelope(s), with postage thereof fully paid, in the United States Mail, in a deposit box so provided at Salinas Valley State Prison, Soledad, California 93960-1050.

<u>U.S. DIST. COURT</u>	<u>DEPT. OF JUSTICE</u>
<u>N. DIST. OF CA.</u>	<u>OFF. OF THE A. GEN.</u>
<u>450 GOLDENGATE AVE</u>	<u>455 GOLDENGATE AVE #11000</u>
<u>S.F. CALIF. 94102-3483</u>	<u>SANFRAN, CALIFORNIA 94102</u>

(List parties served)

There is delivery service by United States Mail at the place so addressed, and/or there is regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: 7/17/08, 20 08,

Clarence Knight  
DECLARANT/PRISONER

CLARENCE KIGHT  
C07508 DT-114  
P.O. Box 1050  
Soledad, CALIF. 93960  
SALINAS VALLEY STATE PRISON

U.S. DIST. COURT OF CA.  
NORTHERN DISTRICT  
450 GOLDENGATE AVE  
SAN FRANCISCO, CALIF. 94102-3483

Prose

STATE PRISON  
GENERATED MAIL

RECEIVED  
JUL 21 2008  
U.S. DISTRICT COURT  
NORTHERN DISTRICT  
SAN FRANCISCO, CALIF.

LEGAL

LEGAL MAIL

R. Smith



8/12/14